

## Impact of Security Provisions in Kashmir

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### ABSTRACT

Ever since the insurgency in the Kashmir Valley, it was an uphill task for the security persons to maintain law and order in the Valley. The most difficult task was to curb the militancy and crush its supporters in the Valley. It was in these circumstances that the Central Government came up with certain Legislative provisions which were in the form of security provisions to maintain the law and order in the state. As these security provisions were made to deal with militancy and its supporters but it made the Valley to cost the lives and liberties of innocent civilians. This paper will study the various security legislations operating in the Valley and its consequences on the people of the Valley.

**KEYWORDS:** Kashmir conflict, Legislative provisions, PSA, JKDA, and AFSPA etc.

### INTRODUCTION

Kashmir conflict being the modern world's one of the longest running and most effective conflict; has its genesis lying in the events of the 1947 partition into India and Pakistan of the Indian subcontinent.<sup>[i]</sup> At that time of India's independence, Kashmir was the largest princely state among the 565 princely states present at that time. After a number of events, India finally succeeded in taking the authoritative control over the Kashmir. But that very Indian control over Kashmir was confined only to the areas of security, foreign affairs and communication. But since its control over Kashmir, the India had at one time or the other taken the control of those areas which were not under her jurisdiction as established by the constitution. This consistent violation of the autonomy and freedom by different government authorities of India along with the issues like unusual derailing of civil rights and liberties, freedom of speech and assembly and other basic human rights became the fashion of the day in the Valley of Kashmir.<sup>[ii]</sup>

Although the Kashmir Valley is the smallest region of the State of Jammu and Kashmir yet the most densely as far as the population is concerned. The Valley is spread over 8,639 square

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miles.<sup>[iii]</sup> By the beginning of insurgency in the Valley in 1990, there were around 150,000 soldiers in the Kashmir i.e., 17 soldiers for each square mile and nearly one for every 27 civilians.<sup>[iv]</sup> As per estimation, there were 500,000 to 700,000 soldiers in the Kashmir in the year 2004, hence making the Valley of Kashmir the most heavily militarized place in the world.<sup>[v]</sup>

### METHODOLOGY

The present study is based on Security provisions in Kashmir. The Study was conducted using both primary as well as secondary sources of data. The primary data was collected through personal interview of various persons in different parts of the Kashmir Valley. The secondary data was taken from various published research papers in journals, news paper reports, Human Rights Organization, NGOs and State Government of Jammu and Kashmir.

### *Security Provisions against the insurgency in Jammu and Kashmir*

Though the legislative provisions are made in order to maintain the law and order and to secure the basic rights of its citizens but the case is different with regard to the legislative provisions to curb the militancy in Kashmir. These provisions were made to deal with militant uprisings in the Valley but at the cost of rights and liberties of the people in the Valley of Kashmir. The major provisions that were made to curb the militancy and insurgency movements in Kashmir were:

1. Public Safety Act (PSA)
2. Armed Forces Special Power's Act (AFSPA)
3. Jammu and Kashmir Disturbed Areas Act (JKDAA)
4. Terrorist and Disruptive Activities (Prevention) Act (TADA) and
5. Prevention of Terrorism Act (POTA)

All these legislations were the outcomes of the uncontrolled executive and military authority over legal and judicial process in the Kashmir Valley. The last two Acts i.e., Terrorist and Disruptive Activities (Prevention) Act (TADA) and Prevention of Terrorism Act (POTA) have been lapsed later on but the detainees under such Acts remain either charged with these Acts or detained with other such Acts like Public Safety Act (PSA).<sup>[vi]</sup> It is necessary to provide a brief introduction of Acts that are still at force in J&K so as to understand the nature of these Acts and to assess their consequences.

**1. Jammu and Kashmir Public Safety Act (PSA):** The Jammu and Kashmir Public Safety Act (PSA) was enacted in 1978 and was used by the administrative authorities of the State for detention without trial for a period of two years. In this case, the detaining authority is the civil administration or more specifically, the Divisional Commissioner or District Magistrate. Under PSA, the authorities of the State along with the State police are granted power to detain individuals; provides immunity<sup>[vii]</sup> to the state employees from prosecution even if they violate the provisions of the PSA.<sup>[viii]</sup> PSA's 8(1)(a) and 8(3)(b) sections, under which detainees are in

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majority, allow detention for those persons who are acting in such a manner as prejudicial to the security of the State and/or prejudicial to the maintenance of public order respectively.<sup>[ix]</sup>

**2. Armed Forces Special Power's Acts (AFSPA):** This is an Act of Indian Parliament that grants Indian Armed Forces with special powers in “disturbed areas” as the act terms.<sup>[x]</sup> On September 11, 1958, one such act was passed for Seven Sister States in northeastern regions of India.<sup>[xi]</sup> In 1983, another such act was passed which was applicable to Punjab and Chandigarh and was later on withdrawn in 1997 i.e., fourteen years after its coming into force.<sup>[xii]</sup> The same act was passed for Jammu and Kashmir in 1990 and is still in force.<sup>[xiii]</sup> By the Act of 1972, the power to declare the disturbed areas was assigned to the Central government.<sup>[xiv]</sup> According to this Act, an army officer in an area as proclaimed “disturbed” has powers to:

- Fire upon or use other kinds of force even if it leads to death after giving due warning, against the person acting against law and order in a disturbed area, for the maintenance of public order.
- Destroy the dumped arms, hiding places including hide-outs, shelter or training camps which are used to make attacks by the armed volunteers or gangs wanted for any offence.
- To arrest anyone without a warrant who has committed or suspected of having committed a cognizable offence and if needed may use force for the arrest.
- In order to make arrests or recover any arms, ammunition or explosive substances, the army personals can enter and search any premises without any warrant
- Stop, search and seize any vehicle on the suspicion of carrying any offender or weapons.
- Any such arrests made under this Act have to be present before the officer in charge of the nearest police station with least possible delay, with a report mentioning the causes of arrest.
- Army officers acting under that Act have a legal immunity from prosecution, suit or other legal proceedings.
- The government's decision to declare an area as disturbed is free from judicial review.
- Army officers acting under this Act cannot be prosecuted unless sanction to prosecute is granted by the central Government.

**3. Jammu and Kashmir Disturbed Areas Act, 1992 (JKDAA):** This Act was enacted by the President of India in 1992 to provide a provision that would suppress the disorder and would restore and maintain public order in disturbed areas of Jammu and Kashmir. The reasons provided for its enactment:

1. In January 1990 there was Governors Rule established in the Jammu and Kashmir. The insurgency had posed a great challenge to the administration of the State. To curb the militancy in the State, Various measures were taken by the Government of India. Because of militants getting continued support from across the border, it was felt necessary to adopt certain effective measures to tackle the situation with a least possible damage and time. So it was in these conditions that the Jammu and Kashmir Disturbed Areas Act, 1990 was enacted.

2. The Act is of a temporary nature and shall remain in force only up to the eighteenth of July 1992.

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3. A Proclamation issued by the President on the 8<sup>th</sup> July 1990 under the 356 Article of the Indian Constitution, declaring that the powers of the Jammu and Kashmir State Legislature shall be exercisable by the Parliament or under the Parliament authority only. Parliament has now conferred on the President, the powers of the Jammu and Kashmir State Legislature to make laws.
4. If the case is a matter of urgency, it is not necessary to consult the Consultative Committee of Parliament on legislation of Jammu and Kashmir.

### *Main features of this Act*

1. This Act authorizes the State Government to declare any district or whole of Jammu Kashmir as a disturbed area.
2. As per this Act, any Magistrate or Police Officer not below the rank of Sub-Inspector or Head Constable in a “disturbed area” may, if he may see necessary to do so for the maintenance of public order, after giving due warning, as may seem necessary to him, fire upon, or use force, even causing to the death, against a person indulging in an act against the public law and order being in force at that time, prohibiting the assembly of 5 or more persons or carrying weapons of any sort.
3. As per this Act, any Magistrate or Police Officer not below the rank of Sub-Inspector or Head Constable in a “disturbed area” may, if it may seem necessary to do so, destroy the arms dump, hide-outs or positions of shelter which may be used to make attacks or used as training camp for armed volunteers and armed gangs who are wanted offenders.
4. As per this Act, there would be no suit, prosecution or other legal proceedings except with the sanction of the State Government made previously, against a person in respect of anything done or purporting to be done in exercise of powers conferred by the points mentioned at serial number 2 and 3.

### *Direct and Indirect Impact of the Acts*

Since the insurgency in Kashmir the behavior of Army troops has drastically changed towards the people especially the Muslim majority in Kashmir whom the troops thought either to be the militants or to be the supporters of militants. The Indian army retaliated with the measures to crush the militancy and its supporters completely in the Valley. They adopted such an attitude towards the Kashmiris<sup>3</sup> that proved very disastrous to the lives of people of Kashmir and had resulted in the gross human rights violations in the Valley. The Human Rights Watch reports that human rights abuses have been a part of campaign as used by the military troops against civilians of Kashmir more particularly since the 1990 and this abuse has taken the forms like mass killings, disappearances, physical as well as mental torture, fake encounters of civilians, rape, sexual harassment and molestation of Muslim women in Kashmir.<sup>[xv]</sup> The following points will make the point clear:

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<sup>3</sup> A term used to describe the people of Kashmir

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**Detentions:** The security legislations like AFSPA and PSA offers no scope for judicial review of the grounds for the detention or any appeal process for detainees. Detentions which are made under the PSA have registered an increase over few years. The Chief Minister of J&K in October 2010 informed the J&K Legislative Assembly that the number of detainees in 2009 and 2010 had been 724, out of which 322 people were detained between January and September 2010. The J&K Home Department provided details of 334 persons booked under the PSA during the period January 5, 2010 to February 14, 2010.<sup>[xvi]</sup> The Government detained 2,700 under the PSA in the period between 2002 and 2006. In year 2008, during the period January to April, 117 detention cases under PSA were introduced in the Srinagar High Court.<sup>[xvii]</sup> During the period between January to September 2010, 322 people were reportedly detained under the PSA.<sup>[xviii]</sup> The number of persons held detained under the administrative detention in J&K from 1990 to 2013 as per national crime bureau (NCRB) is 6610 and as per Greater Kashmir newspaper is 15702.<sup>[xix]</sup> These detainees are mainly political activists and civil society members including children. They are typically picked up for ‘unofficial’ interrogation, during that period they do not have access to a lawyer or to their families. In formal custody, they are trapped in a cycle of detention; upon the expiry of one order of detention, a new charge is levied upon a detainee and hence rearrested and as a result may be indefinitely held without a trial.<sup>[xx]</sup> It has become a norm to torture these detainees; even the Kashmiris are often arbitrarily and illegally detained.<sup>[xxi]</sup>

**Disappearances:** Security forces continue to abuse the human rights in Kashmir. Human Rights Watch, in September 2006, released report of 150 pages titled, “*Everyone lives in Fear*”: *Patterns of Impunity in Jammu and Kashmir*.<sup>[xxii]</sup> The report Documents large number of cases of killings, disappearances, torture an arbitrary detentions. In its statement it makes it clear that Indian security forces have been responsible for the enforced disappearances. Kashmiri human rights defenders say that at least 8000 people have disappeared since the conflict began in Kashmir; most of them were last seen in the custody of army troops. As per the Government estimation, the number of missing persons is 4000 and according to others sources; the number is estimated to be 5000 to 10000.

**Killings:** The use of illegal brutal force has become a routine in Kashmir from Indian army troops. In the name of terrorists, thousands of innocent civilians had lost their lives in Kashmir. There are numerous examples to prove that. One such example is the killing of 5 men who were falsely reported by police and army as the persons involved in the massacre of thirty Sikhs in Chittisinghpura in year 2000 and were later on killed in a fake encounter. It was later on that after conducting the forensic tests revealed that all the five persons were innocent local villagers. The other example may be the killing of four boys, who were playing cricket in Handwara in 2006 by firing at a group of playing boys, on a suspicion that a militant is hiding among them.<sup>[xxiii]</sup>

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The deaths caused by the excessive use of brutal force against the demonstrators in Jammu and Kashmir in 2010 is over 100.<sup>[xxiv]</sup> 2560 deaths were reported by the National Human Rights Commission (NHRC), as occurred in encounters with police in the years between 1993 and 2008, out of which 1224 cases as per the reports of NHRC were fake encounters.<sup>[xxv]</sup> The State Human Rights Commission (SHRC) in its investigation found 2730 bodies in unmarked graves at 38 places in North Kashmir and out of that number, the locals as being identified were at least 574.<sup>[xxvi]</sup> As asserted by the Parvez Imroz and his field workers, there were about 6,000 unmarked graves in Kashmir. There are numerous examples like that which reveals the killing of innocent civilians in fake encounters. The Table 1 provides the detailed list of massacres in J&K in which Indian Armed Forces including Army, CRPF and BSF are accused:

***Table 1: List of Incidents in which civilian killings happened through Indian Security Personals Since 1990 to 2015***

Incident	Place of Incident	Date/Year of Incident	Remarks
Srinagar Massacre	Srinagar	8 January, 1990	17 people were killed by firing at various places in Srinagar.
Handwara Massacre	Handwara	15 January, 1990	17 civilians were shot dead including one woman.
Massacre of Gawakadal	Basantbagh and Gawkadal Srinagar	21 January, 1990	280 innocent civilians were killed.
Handwara Massacre	Handwara, Kupwara	22 January, 1990	26 civilians were shot dead. A woman and some slain persons were roasted alive.
Massacre of Zakoora	Zakoora	1 March, 1990	21 demonstrators were killed.
Massacre of Tengpora	Tengpora	1 March, 1990	26 demonstrators were shot dead.
Massacre of Islamia College Srinagar	Srinagar	21 May, 1990	70 persons carrying the dead body of late Mirwaiz Molvi Muhammad Farooq, a prominent Liberation leader were put to death including. Five women including a pregnant were killed.
Massacre of Mashali Mohalla	Srinagar	6 August, 1990	9 innocent civilians were killed by raiding the houses of local inhabitants.
Pazipora Massacre	Pazipora, Kupwara	10 August	25 civilians of the locality, who tried to rescue their ladies from being raped by the Indian Security Personals, were shot dead on the spot.

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Incident	Place of Incident	Date/Year of Incident	Remarks
Bus Incident of September, 1990	Kashmir	11 September, 1990	A civil passenger bus was intercepted and fired upon which resulted in the death of 22 civilians. Thereafter, the bus was set on fire which resulted in the burning of eight persons alive.
Handwara Incident	Handwara, Kupwara	01 October, 1990	20 civilians were killed.
Incident of Magarmalbagh	Magarmalbagh Srinagar	19 January, 1991	11 civilians were killed.
Incident at Achabal	Achabal Anantnag	30 January 1991	7 civilians were shot dead.
Rakhi Haigam Incident	Rakhi Haigam Sopore	11 March 1991	In an indiscriminate firing, 6 civilians were killed including a 12 years old boy.
Pishwari Trehgam Incident	Pishwari Trehgam, Kupwara	16 March, 1991	7 persons including an Imam were shot dead in a mosque during prayers.
Incident of Khayam, Khanyar	Khayam, Khanyar Srinagar	05 May, 1991	5 persons, including a 3 years old girl, Aisha got killed in an indiscriminate firing.
Incident of Pir Dastgeer, Khanyar	Pir Dastgeer, Khanyar, downtown Srinagar	8 May 1991	18 civilians including an infant aged 2 years and his father were killed.
Chotabazar Incident	Chotabazar, Srinagar	11 June, 1991	32 civilians including shopkeepers, passers-by, old persons, women and children were killed.
Incident of Safanagri and Nelora	Safanagri and Nelora, Pulwama	3 September, 1991	23 civilians got killed.
Aloosa Incident	Aloosa, Bandipora	2 April, 1992	5 five fishermen were killed by firing upon them and many more bodies were recovered from Wular lake as they were made to sink by tying heavy stones to their limbs.
April 13 Incident	Mohalla Hajma, Talian, Syed Sulttanpora, Mahraipora and Chinikipora	13 April 1992	13 civilians were killed.
Lal Chowk Incident	Lal Chowk Srinagar	2 July, 1992	6 civilians were killed.

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Incident	Place of Incident	Date/Year of Incident	Remarks
Incident of Ishbar	Ishbar Srinagar	6 July, 1992	7 civilians were killed.
Nasrullahpora Incident	Budgam	13 July, 1992	10 innocent people were killed.
Tral Incident	Taj Mohalla Tral	15 August, 1992	6 civilians were killed. One of them was burnt alive.
Handwara October Incident	Handwara, Kupwara	2 October, 1992	10 civilians were killed.
Kishtawar Incident	Kishtawar, Doda	12 December, 1992	12 Indian troops killed 7 civilians.
Massacre of Sopore	Sopore, Barmullah	6 January, 1993	37 residential and 35 commercial structures were set ablaze which resulted in the death of 57 civilians, most of them roasted alive.
Fire at Lal Chowk	Lal Chowk Srinagar	10 April, 1993	47 innocent civilians were burnt alive, when most of the Lal Chowk was set on fire, destroying 59 houses, 190 shops, 53 godowns and 2 office complexes.
Baramullah Incident	Baba Reshi, Baramullah	1 July, 1993	9 civilians were killed who had come to the shrine.
Hangulbutch Incident	Hangulbutch, Pulwama	30 July 1993	12 civilians were killed.
Daribal Incident	Daribal, Srinagar	1 August, 1993	3 family members; father, mother and son, were killed in Daribal Srinagar. The people afterwards took to streets to protest against the killings, the Forces resorted to firing, killing 10 of them.
Sarthal Incident	Sarthal, Doda	14 August, 1993	14 civilians were killed.
Bijbehara Massacre	Bijbehara Anantnag	22 October, 1993	50 persons were killed by firing on a procession.
Sopore Incident	Aadipora, Sopore	20 November, 1993	5 persons including a woman were killed.
Sangrama incident	Sangrama Baramullah	24 November, 1993	7 civilians were killed.
Bulbul Nowgam Incident	Bulbul Nowgam, Shangas	22 December, 1993	6 civilians were killed.
Kupwara Incident	Kupwara	24 January, 1994	18 Kashmiris were killed.
Bandipora Killing	Bandipora	10 may, 1994	9 persons were arrested and



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Incident	Place of Incident	Date/Year of Incident	Remarks
			killed in a military camp.
Gad Kocha Incident	Gad Kocha, Srinagar	10 February, 1995	6 shopkeepers were killed.
Doda Massacre	Barshala, Doda	5 January, 1996	15 Kashmiris, 10 of them belonging to one family were massacred.
Incident of Kamlari	Kamlari, Doda	8 June, 1996	8 Civilians were killed.
Arin Incident	Arin, Baramullah	19 September, 1997	11 persons were killed.
Madwa Incident	Madwa, Doda	28 June, 1998	9 persons were massacred on Eid day.
Doda incident of July 28	Doda	28 July, 1998	16 civilians were killed.
Sailan Massacre	Sailan, Surankote Poonch	3 August, 1998	20 civilians included 7 children were killed
Poonch Incident	Morha Bichai and Sahotri, Poonch	29 June, 1999	17 Civilians including 5 women and 7 children were killed.
Qazigund Incident	Qazigund, Anantnag	28 February, and 17 March 2000	5 civilians and 7 truck drivers were killed.
Brakpora Massacre	Brakpora, Anantnag	24 March, 2000	5 innocent civilians were killed in custody and subsequently roasted.
Pathribal Massacre	Pathribal, Anantnag	30 March, 2000	7 protestors were killed, who were demanding dead bodies of Brakpora massacre.
Tangdar Incident	Tangdar, Kupwara	14 May, 2000	5 teenagers who were arrested from sopore were killed in Tangdar.
Pahalgam Massacre	Pahalgam, Anantnag	1 August, 2000	31 civilians were massacred.
Kupwara Incident	Kupwara	2 August, 2000	7 people from a single family were killed.
Doda Incident of August 2	Doda	2 August, 2000	11 civilians were killed.
Mahjoornagar Incident	Mahjoornagar, Srinagar	3 February, 2001	7 civilians (Sikhs) were killed.
Mandi Incident	Mandi, Poonch	21 March. 2001	10 Kashmiris were killed.
Doru Incident	Doru, Anantnag	31 March, 2001	7 Kashmiri drivers were killed.
Incident of Sheshnag	Sheshnag, Anantnag	21 July, 2001	13 civilian were killed.
December Incident of Baramullah	Baramullah	8 December, 2001	10 civilians, including, women and children were killed.
Doda Incident of 2002	Luddu and Ramsu, Doda	6 January, 2002	6 civilians were killed.

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Incident	Place of Incident	Date/Year of Incident	Remarks
Poonch Incident	Behra, Poonch	20 January, 2002	11 civilians were killed.
Maindher Incident of 2002	Salwa Maindhar, Poonch	21 January, 2002	14 persons including 8 children were killed.
Domail Incident	Domail, Doda	22 October, 2003	7 members of a family were shot dead at a wedding ceremony.
Pahalgam Incident of December 2004	Pahalgam, Anantnag	5 April, 2004	7 civilians were killed.
Doodhipora Killing	Doodhipora	22 February, 2006	4 teenagers were killed.
Kahmir Unrest, 2008	Srinagar	26 May, 2008	100 people were killed during a police firing into a crowd protesting the transfer of forest land.
Baramullah Killing	Baramullah	29 June, 2009	4 persons were killed.
Bomai Killing	Bomai, Tujar Sharief, Sopore	21 February, 2009	2 devotees were shot dead.
Shopian rape and murder case, 2009	Shopian	23 February, 2009	Two women were allegedly raped and murdered.
Killing at Khaigam	Khiagam	19 March, 2009	Allegedly a carpenter was killed.
Kashmir Unrest, 2010	Kashmir	2010	112 were killed.
Machil Incident	Machil	2010	3 civilians were killed in a fake encounter.
Firing Incident at Ramban	Ramban	18 July, 2013	6 persons were killed.

*Source: Survey Data*

**Sexual Harassments:** With the advent of security legislations like JKDAA, AFSPA and PSA in Jammu and Kashmir, women in Kashmir and more specifically the Muslim women have often become the targets of violence in the form of sexual abuses. The actual cases of sexual abuses are unknown in Kashmir because most cases go unreported due to social stigma and fear of retribution by the state. Unlike killings or disappearance, the issues of incidents like rape are ignored by the administration as well as by the society due to shame, dishonor and disgrace it brings to the victim and her family. <sup>[xxvii]</sup> However there are certain notable events that have gained huge publicity. The prominent among them are:

- In 1991, a large number of village women were gang-raped in Kunan Poshpora by soldiers of Rajputana Riifles in their search and interrogation operations; at 11:00 PM till 9:00 AM as well as next day while the men were interrogated overnight. Up to 100

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women were gang-raped including an 80 year old grandmother as well as a 13 years old girl.<sup>[xxviii]</sup>

- The gang-rape at Shopian in October 1992 in which nine women were gang-raped by the soldiers of Indian Army.<sup>[xxix]</sup>
- The recent one being the incident at Shopian in 2009, where two girls Nilofar and Asiya aged 22 and 17 years respectively of district Shopian were raped and murdered.<sup>[xxx]</sup>

The Table 2 provides a list of rapes committed in different villages in different years from 1990 - 2015 by Indian army personal:

**Table 2: List of Rape Incidents in Kashmir done by Indian Security forces from 1990-2015**

Rape Incident	Place of Incident	Year of Incident	Remarks
Pazipora Rape Incident	Pazipora, Sopore	1990	A woman 24 years of age was raped.
Barbar Shah Rape Incident	Barbar Shah, Srinagar	5 January, 1991	A mentally ill old woman was raped.
Kunan Poshpora Rape Incident	Kunan Poshpora	1991	Up to 100 women including an 80 years old woman and a 13 years old girl were gang raped during the whole night.
Chak saidpora Rape Incident	Chak Saidapora	10 October, 1992	9 women including an 11 year old girl and a 60 years old woman were gang rape.
Haran Rape Incident	Haran Srinagar	20 July, 1992	A woman was gang raped in her house.
Gurihakhar Rape Incident	Gurihakhar	1 October, 1992	A woman was raped in her house.
Kangan Rape Incident	Theno Budapathary, Knagan	1994	A woman named Aisha along with her 12 year old daughter Shabnam was raped.
Sheikhpora Rape Incident	Sheikhpora, Sallar, Anantnag	19 December, 1994	A 60 year old woman was raped while her husband and two sons were locked in another room of their own house.
Narbal Pingalgom Rape Incident	Narbal Pingalgom, Pulwama	November, 1997	A girl was raped.
Wavoosa Rape Incident	Wavoosa, Srinagar	1997	7 women were raped.
Zero bridge Rape Incident	Zero Bridge Rajbagh	28, October, 2004	21 year old girl was raped by 4 security personals at guest house.
Handwara Rape Incident	Baderpayeen, Handwara	6 November, 2004	A 30 year old women and her daughter were raped.
Shopian Rape Incident	Shopian	2009	2 girls aged 22 and 17 years were gang raped and murdered.

*Source: Survey Data*

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Human Rights Watch has accused the Indian security forces of committing over 200 rapes in Kashmir.<sup>[xxxix]</sup> The Chief Minister of J&K in October 2011 apologized for the release of names and addresses of 1400 rape victims. However, there are no details revealed regarding the persons who committed these rapes, whether security forces or militants.<sup>[xxxii]</sup>

### CONCLUSION

The Constitution of India guarantees fundamental rights which are judicially enforceable which include the right to freedom of speech, political affiliation and right against arbitrary arrest or detention. But these fundamental rights are not inalienable and can be suspended at the time of emergency as per article 357 of the Indian constitution. In case of Kashmir uprising certain security legislations like PSA, JKDA, AFSPA, TADA and POTA enacted to curb militancy and its supports in the Valley. But these Acts were seen directly contravening the right to be free from arbitrary detention, the right to political affiliation and opinion, the right to freedom of speech and the right to life. Hence there is a greater need to revoke such acts so that the people in Kashmir who have lived in a long fear will be able to take breath in a free and fair environment where they will find their rights secure from such inhumane acts.

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### Conflict of Interests

The author declared no conflict of interests.

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